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AMERICAN JUDICATURE SOCIETY
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JOURNAL OF THE AMERICAN JUDICATURE SOCIETY

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Continuing Education of the Bar

ABOUT FIVE YEARS AGO when young lawyers in military service first began to turn their eyes homeward, it became apparent to them and to leaders of the bar in this country that something had to be done to remove the rust which two to five years of war had deposited on the legal training which they had when they marched away, and give them a chance to re-enter the profession without such a handicap. To meet this need, refresher courses were instituted by bar associations and law schools throughout the country, offering a general review of the law and of developments in various fields of law during the war years. They were gratefully received by the veterans for whom they were designed, but other lawyers also found them of value, and when in due course of time the veterans had all been provided for, the refresher program did not die but blossomed out instead into a permanent program of greater value and more enduring significance to the profession than the specific project which brought it into being. This program we know today as post-admission legal education, continuing education of the bar, or merely legal institutes. It has spread to all parts of the country, and there are few localities where its introduction would not be of immense benefit to both the profession and the public.

The work of the Committee on Continuing Legal Education of the American Law Institute and the American Bar Association in promoting this work is described in John E. Mulder's article in this JOURNAL. The Practising Law Institute of New York City has been engaged in it for years, and the Section of Judical Administration of the American Bar Association has made it its special theme of emphasis this year. Law schools and other agencies are cooperating to help it along.

Among the latter is the Southwestern Legal Center described by Dean Storey in this same issue. This type of institution opens a wider-than-ever area of service to and by the legal profession. New York University's Law Center was the pioneer, just a few years ago. Southern Methodist's is well on the way to completion; the University of Illinois has announced plans for one, and others are known to be interested and working to that end.

The JOURNAL this month salutes the post-admission legal education movement

The idea that lawyers should unite to promote a more efficient administration of justice, was first proposed by Herbert Lincoln Harley, who devoted the best years of his life to this form of public service.

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as sponsored by Mr. Mulder's committee, and the legal center movement as exemplified by that of Southern Methodist University, and invites lawyers everywhere to acquaint themselves with them through these two articles and to take full advantage of what they have to offer toward promoting the welfare of the profession and the improvement of the administration of justice.

FEWER AND SHORTER OPINIONS have been urged in many an article in these pages. Just in case some judge has taken them too much to heart and is writing too few and too short opinions, we offer some opposing considerations in the article by Colonel Archibald King on page 108. Lest our readers assume that either Colonel King or the JOURNAL is taking issue with the previous articles, we call attention to the opening sentences of his closing paragraph wherein he emphasizes that even he does not advocate having an opinion any longer than necessary, nor having an opinion at all in a case that really does not need it. Abraham Lincoln is supposed to have said that a man's legs should be just long enough to reach the ground. An opinion should be the exact length required to make clear the reasoning of the decision, and it should be neither longer nor shorter.

The natural trend of most writers, however, is toward verbosity, and one of the marks of the skilled writer is the ability to condense and concentrate until every phrase and sentence fairly bursts with meaning. Justice Cardozo never has been surpassed in this respect. Most writing would be improved from the literary standpoint by the process of shortening, and the retort to his superior that Colonel King withheld for reasons of military protocol probably was wrong anyway. Christ cursed the barren fig tree for producing nothing but leaves. Much could be written about the usefulness and necessity of leaves, but the great need always will be for trees with less leaves and more figs on them, and for opinions with less words and more law in them.

A GREAT STEP FORWARD in the administration of justice has been the recognition, largely within the last generation, that insane persons are not witches nor possessed of the devil, but are suffering from mental illness, which is a matter for treatment and not for punishment. There are signs that a new day may be dawning for another class of human unfortunates—the sexually abnormal. Just as mental illness ranges all the way from the ravings of the maniac to the little bit of queerness found in all humanity except present company, so sexual deviations cover an equally wide range and their influence on human conduct is correspondingly varied. Popular indignation over sex crimes, and the hush-hush attitude toward discussion of sex matters which still prevails rather widely, have retarded the progress that should have been made before now in studying and dealing with sex offenders as victims of another form of illness. Governor G. Mennen Williams of Michigan recently has appointed a commission to look into this matter, and the State Bar of Michigan and the Michigan State Medical Society have appointed cooperating committees. The result should be not only better justice for defendants in sex cases, but information which may be used in a preventive way to keep such persons from becoming dangerous or having opportunity to commit crime.

The moral elevation and social education of our people are the chief source from which we must expect better judicial service. We must not expect a court to reflect much higher standards of morals or justice than the communities which select them.—*Peter J. Shields*

A person may have acquired all the knowledge of music and be able to execute the most difficult composition with skill, yet if he does not have a passionate love of music in his soul he can never become a really great musician. So, however learned, however wise, however well-intentioned a judge may be, unless his heart is on fire with love for his fellow-men, with sympathy for the humblest of that innumerable host called the common people, he can never be a great judge.—*M. K. Harris*

The only lawyer who was ever canonized as a saint was St. Ives, who dedicated himself to the administration of criminal justice and to the mitigation of the sufferings of poor people in the toils of the law.—*Justin Miller*

The future, it seems to me, calls upon us to combine, if we can, the eloquence of the advocate, the structural sense of the legal architect, and the wisdom of the great judges of the law, who never have failed to see that the law is a part of life and cannot be separated from the aims, the ethics, the hopes and the will of the people.—*William T. Gossett.*

U.C.L.A. To Hold Traffic Court Conference

A five-day conference on traffic law and court administration will be conducted January 30-February 3 at the University of Southern California in Los Angeles.

The University's School of Law is sponsoring the conference, in cooperation with the Traffic Institute of Northwestern University, and the Traffic Court Committee of the American Bar Association.

The conference will be open on a regional basis to traffic court judges and prosecutors and others in the enforcement field, Dean Shelden D. Elliott of the School of Law announced. Police officers who have a special interest in traffic law enforcement may attend, provided they have previously attended or participated in a police course for at least two weeks.

This will be the second such conference to be held at the University of Southern California and the twelfth in a series being conducted at universities throughout the country. The conference program is aided by a grant to the Traffic Institute from the National Association of Automotive Mutual Insurance Companies.

One of the features of the conference will be a mock trial in which the use of chemical tests to determine intoxication will be explained.

Other subjects to be covered during the conference will be: the traffic problem and principles of control, traffic court operations, application of criminal law and law of evidence, model traffic ordinance, elements in reckless driving charge, factors influencing driver performance and means of improvement, civil and criminal responsibility in traffic accident cases, physical laws affecting motor vehicle operation, and functions of the prosecutor.

To Survey Profession in Canada

A Survey of the Legal Profession in Canada is being conducted under the auspices of the Canadian Bar Association, with financial assistance from the Carnegie Corporation.

The Survey is to be directed by an autonomous Council with powers and objectives very similar to those of the governing body of the Survey now in progress in this country. The Council is composed of twenty-one prominent lawyers, judges and laymen from all parts of the Dominion.

At its organization meeting last month the Council elected John T. Hackett, K. C., of Montreal, as its chairman, and Andre Taschereau, K. C., of Quebec, as vice-chairman. The Honorable Charles P. McTague, K. C., of Toronto, formerly judge of the Supreme Court of Ontario and of the Court of Appeal, is to serve as director of the Survey, and John P. Nelligan will be assistant director and secretary of the Council.

The Southwestern Legal Center

By ROBERT G. STOREY

LAW accompanies the business man to his desk, the statesman to his assembly, the worker to his bench, the banker to his vaults, even the doctor to his patient, the musician to his platform, and the priest to his altar. Every phase of life is affected, either visibly or invisibly to a greater or lesser degree, by the regulations of society; and these regulations are law, whether enacted or traditional. Leaders and thinkers all over the world are longing for the law that protects liberty and the law that is based upon reason, morality and justice. But where can the teachers, scholars, successful lawyers, leaders in governmental affairs, and outstanding independent thinkers assemble to plan and create that type of government? Such a rendezvous may be found in the Legal Center. It is only natural then that here in the great Southwest with a tradition for pioneering and struggle we should seek to establish such a forum.

The Southwestern Legal Foundation was formed by a representative group of business men and lawyers to "support, encourage and establish scholarships, conduct research and investigations in legal problems and activities, including the general field of law and government; to cooperate with and make recommendations to recognized bar associations, legal organizations, foundations and other institutions interested in the improvement of the legal profession, law schools and administration of justice; to establish and operate legal institutes, legal aid clinics and any other related activities for the benefit of the legal profession, the public and government; to conduct institutes, research and forums of international law and relations, especially as affecting the Western Hemisphere—."

To effectuate these objectives the Southwestern Legal Foundation in cooperation with the Southern Methodist University School of Law is now constructing a great Legal Center in Dallas, Texas. Life was really breathed into the project when, in November 1947, a modern three-story class room building of Georgian architecture and a choice five-acre plot of ground were dedicated to the exclusive use of the Southwestern Legal Center and the Southern Methodist University School of Law. There are now under construction two other large buildings which will complete the Legal Center. Funds for this construction have been raised through the efforts of the Southwestern Legal Foundation.

The Legal Center main building will house the law library and administrative and executive offices of the SMU School of Law and the Legal Foundation. One wing of this building will contain the Oil and Gas Library and appropriate offices and rooms for study and research as well as an auditorium seating four hundred. In another wing will be a library devoted to international law and government and the faculty library and study. The Lawyer's Building, being built by funds pledged by Southwestern lawyers, will provide dormitory facilities for advanced law students and will contain a dining room and lounge and conference rooms for members of the Southwestern Legal Foundation.

Regional in its scope, representatives from five Southwestern states are numbered on the Foundation's board of trustees. Controlling the policies of the Foundation, these trustees exercise no control over the operation of the Law School; however, the Law School and the Foundation will work closely and harmoniously

ROBERT G. STOREY is a member of the Dallas bar, dean of the Southern Methodist University School of Law, and president of the Southwestern Legal Foundation, the work of which is described in this article. Long active in bar circles, Dean Storey is immediate past president of the State Bar of Texas, a member of the Board of Governors of the American Bar Association, a member of the council of the Survey of the Legal Profession, and of the Joint Committee on Continuing Legal Education.

in operating the Legal Center and in achieving its aims and objectives.

RESEARCH

Complacency has no place in a rapidly changing world—a world where laws, once largely the product of local necessity have now become national and even international in their scope. It seems undeniable that if the law and the legal profession are to keep abreast of such progress it must be through constant study and research. Realizing this, research is regarded as one of the most important phases of Legal Center activity.

In almost every field where the immediate need is felt for special study and planning research will be undertaken. Since Southwestern lawyers and laymen alike find themselves particularly interested in the law of oil and gas, research and development in this important branch of the law will, of course, be stressed. One wing of the Legal Center main building will be devoted entirely to an oil and gas library which it is anticipated will become one of the best equipped in the country. This library will collect works and data on the technical and geophysical aspects as well as the legal.

The law of taxation, insurance, and labor relations will also receive special attention. Closely allied with the research is the annual institute presented on each of these subjects, another medium through which the results of the study and research can be delivered to the practicing attorney.

Such research and mature consideration by thoughtful and experienced judges, lawyers, legislators, law school professors, business men and representatives of management and labor will seek to find solutions to complex legal problems which disturb our people. Experts thus assembled will labor in the quiet and noncontroversial atmosphere of the Legal Center but they will defend their work in the forums, in the courts, and before the public.

It has sometimes been asked, "Why not let these experts work in their respective fields?" The judges cannot do it alone because they are restrained by precedent. Members of the bar by themselves are preoccupied with their work for clients. Law school teachers are not in close contact with concrete cases. But in each group there are men who have been trying to cope with the problems of law and society. Drawn together, working in the Legal Center, such concentrated effort may well be the only solution to many of our perplexing modern day problems.

We are indeed gratified that the Honorable Hatton W. Sumners, spirited public servant and close student of constitutional government, has agreed to become Director of Research for a special project we call "Research Into the Fundamental Principles of Law and Government." Mr. Sumners chooses to refer to his new charge as "a study of the art and science of self-governing." Thirty-four years on the Washington scene, and during many of those chairman of the important House Judiciary Committee, has given him a keen insight into the workings of constitutional government. This venture into the very heart of our democratic tradition is expected to produce thought-provoking results.

Furthering all of these research undertakings will be the operation of the Graduate School of the SMU School of Law slated to begin in the fall of 1950. Many of the graduate courses are designed not only to be attractive to the practicing lawyer thus inducing him to continue his formal study, but also to encourage and stimulate research in some specialized fields.

INSTITUTES

Those of us at the Legal Center are keenly aware of the pressing need for some convenient means of affording a program of continuing education for the bar. I say convenient because it is difficult indeed for the busy practicing lawyer to keep abreast of new developments in the law, yet sources should be made available. One method offering at least a partial solution is the legal institute. Its value has been recognized by the Committee on Continuing Legal Education of the American Bar Association and the American Law Institute, as a means of keeping the lawyers up to date. Concentrating on specific subjects, the institute is a means of presenting "timely tips" by those who are specialists in various fields of the law.

Several annual institutes will be held at the Legal Center on subjects of special interest to the Southwest such as oil and gas, insurance and taxation. Labor law, administrative

law and international law also will receive special attention.

Encouraged and assisted by the Southwestern Legal Foundation, the State Bar of Texas is now conducting an average of twenty-five to thirty institutes annually in all parts of the state. The response has been an enthusiastic one and the great body of lawyers seem to welcome this method of "going back to school."

The four-day Oil and Gas Institute presented by the Legal Center last year attracted over four hundred enthusiastic lawyers from all parts of the United States. For over two years Tax Institutes have been presented under the auspices of the Foundation in various sections of the state.

The great volume of administrative rules and regulations constantly promulgated, the work of prolific state legislatures, and the mass of judicial decisions make the institute an attractive means of helping the busy practitioner keep pace with rapid developments in the law.

CONFERENCES AND SEMINARS

It is planned that the Legal Center will become a laboratory to test ideas; a place where thoughtful and experienced judges, legislators, law school professors, business men and representatives of both management and labor may jointly seek the solution to many of our perplexing problems.

Conferences may be planned on any subject, whereas seminars ordinarily will be designed as graduate courses for the lawyer.

Dean Vanderbilt, speaking on the idea of a Legal Center generally, aptly summarized our mission here when he said, "Just as the Inns of Court were the haven of their predecessors three centuries ago, so today the Legal Center must become their meeting place and work shop."

INTERNATIONAL LAW AND RELATIONS

Experience learned during and since World War II has taught us forcibly that international relations are, or should be, of vital concern to every citizen. We have learned the folly of thinking only in terms of county or state boundaries in considering the effect of law and justice. Even national boundaries have dissolved into infinite oblivion as far as intercourse with other nations is concerned. When problems affecting the peoples across the sea are felt as acutely as once were those affecting our neighbor across the back yard fence—then we become internationalist whether we wish to or not.

Thus it is that another objective of the Legal Center will be to encourage study in international law and foreign affairs and promote institutes on foreign relations, especially as affecting our relations with Latin America. In this regard we propose to take full advantage of the Fulbright Act to exchange students and professors with friendly foreign governments.

It is also planned to conduct under the auspices of the Foundation and Southern Methodist University an annual institute on foreign affairs similar to the Cleveland Institute of Foreign Affairs.

Several outstanding men form the nucleus of this phase of Legal Center activity and we feel honored and fortunate indeed to have Colonel Alvin M. Owsley as chairman of the International Law Committee. Former United States Minister to Ireland, Denmark and Rumania, Past Commander of the American Legion, and recipient of many other honors, Colonel Owsley is eminently qualified to head this important work.

LEGAL AID

More than ever the organized bar is beginning to realize that if it is to meet its responsibility to society free legal aid must be made available to those unable to afford legal services. Through the joint cooperation of the Legal Center, the Junior Bar Association and the City-County Welfare Department, Dallas now has in operation a free legal aid clinic. Senior students of the law school working under members of the junior bar who give freely of their time, last year handled one hundred and forty-six cases ranging from child support to an injunction to prevent improper sale of an old couple's homestead.

A Texas prisoner recently learned that another man was boasting of the crime for which the prisoner was serving time. He had no money, and so he wrote our legal aid clinic seeking advice. The case is now pending before the United States Supreme Court and there is hope that the prisoner will be released.

Many more examples could be given where

private rights have been championed and protected where otherwise they would not have been were it not for the services performed through free legal aid.

Although the legal aid clinics operated in connection with our law schools cannot alone meet this responsibility they do serve a pressing community need and at the same time offer clinical facilities to senior law students and give them much needed practical experience.

There is still much to be done in the field of free legal aid and the Legal Center will give considerable attention and study to the proper methods of improving its operation.

Although these five specialized subjects are often spoken of as comprising our program, yet the improvement of the administration of justice as a whole is our ultimate objective, and we look forward to accomplishing it through each of these individual activities and our entire program collectively. This is expressed in the purpose clause of the charter, which says: ". . . to cooperate with and make recommendations to recognized bar associations, legal organizations, foundations and other institutions interested in the improvement of the legal profession, law schools and the administration of justice . . ."

Fortunately we have already translated into positive action many of our stated objectives and thus taken them out of the realm of mere projection and "high-sounding phrases." Many attempts have been made to solve our complex legal problems but most of them have failed for lack of purpose and perseverance. Once the physical plant is finished, I am convinced that there is no limit to the amount or character of work that can be accomplished in the Legal Center.

Judicial Ethics in California

By PHILBRICK MCCOY

FOR many years the judges of all our courts have had for their guidance the Canons of Judicial Ethics adopted in 1924 by the American Bar Association. According to the preamble, these canons were adopted as "a reminder for judges, and as indicating what the people have a right to expect of them." As in most walks of life, the admonitions of these canons have been generally sufficient for the purpose; but, as is true in other professional fields, so it has been with judges, that some have thought it proper to be a law unto themselves, notwithstanding public and professional opinion and condemnation. That this has been so in California, as elsewhere, is shown by a review of the cases.[1]

PHILBRICK McCOY is a judge of the Municipal Court of Los Angeles, and a member of the committee of the Conference of California Judges which drafted the Canons of Judicial Ethics herein described.

In September, 1948, Judge Robert McWilliams, of the Superior Court of California in San Francisco, stated at the annual meeting of the Conference of California Judges, that he believed the judges themselves should adopt canons of ethics. The committee which was appointed to draft the proposed canons as a result of this suggestion reported at the 1949 meeting of the Conference, at which, with some modifications, the canons were adopted.[2]

So far as the committee could ascertain, the action of the judges of California is without precedent in at least two particulars.

1. See: McCoy, "A Note on Judicial Ethics in California," 22 So. Cal. L. Rev. 240 (April, 1949).

2. The Conference of California Judges was organized in September, 1939, by the judges of all courts of record in the state. Courts of record include the Supreme Court, the District Courts of Appeal, the Superior Court, and the Municipal Courts. They do not include justices of the peace, etc. While association with the Conference is voluntary, its present membership numbers 272 out of a total of 280 such judges.

"If we adopt such a code today," said Justice A. Frank Bray, the chairman, in submitting his report, "we will be the first state in which the judges as a whole have taken such action. In four states, their supreme courts have by court order adopted such codes. Those states are Florida, Virginia, Michigan and West Virginia. In New Jersey, the canons of the American Bar Association were adopted by the Supreme Court as rules of court. In eight other states the state bar associations have adopted codes of judicial ethics. These states are South Dakota, Georgia, Kansas, New York, Oregon, Iowa, New Mexico and California. In every state where a code of judicial ethics has been adopted, either by the supreme court or the bar association, the code adopted has been the complete American Bar Association code, with, in one or two instances only, very minor changes. It is interesting to note, too, that in all these states, the canon prohibiting photographs in the courtroom is the American Bar Association Canon 35, which prohibits them not only during court proceedings, but also during recess. If this Conference adopts the code offered by this committee, California will be the first state to have a code of judicial ethics which is not entirely a copy of the American Bar Association code."[3]

The Canons of Judicial Ethics adopted by the Conference contain several changes from the American Bar Association Canons, both in form and in substance.[4]

The law of California has long provided that marriage may be solemnized by any of the justices or judges of the courts of the State as well as by a priest or minister.[5] In certain instances this privilege, obviously not related to the judicial duties of a judge, has been abused by judges who frequently adjourn court in order to solemnize a marriage, usually for a fee. To meet this situation, Canon 6, which at the same time is a condensation of Canons 6, 7, and 8 of the American Bar Association, includes a prohibitory admonition on the subject. The new Canon reads:

"6. *Industry and Promptness; Court Organization.*

"A judge should be courteous, cooperative, prompt, diligent and faithful in the performance of his duties. During the hours when his court is open for the conduct of official business, a judge should refrain from solemnizing marriages and from performing other services in his capacity as a judge not related to his judicial duties.

"A judge should organize his court for the efficient handling of business, and should demand courtesy, efficiency and dispatch on the part of his clerk and other assistants."

Canon 11, which is based on A.B.A. Canon 13, no longer declares that a judge should not act in a controversy where a near relative is a party. The state law with respect to this and several other grounds for the disqualification of a judge[6] fully covers the situation. It was felt that a reference in the canon to but one ground for disqualification would be unwise and that a reference to all statutory grounds would not be advisable.

Much has been written in recent years on the subject of disenting opinions. At least two justices of the District Court of Appeal of California have recently refrained from thus extending the record by reason of the views expressed in American Bar Association Canon 19.[7] On this and other subjects, Canon 16 restates the substance of A.B.A. Canons 19 and 20 in the following language:

"16. *Judicial Opinions and Decisions.*

"Judges should receive and consider evidence and argument, and review records of trials and other proceedings with open minds. It should be remembered that a judge's duty is to ascertain and apply existing law rather than to legislate or to apply his personal concepts of what the law should be.

"Final and unanimous agreement in courts of appeal, particularly in courts of last resort, is most desirable as it will lend stability to law and finality to litigation. Except in cases of conscientious and irreconcilable difference of opinion on fundamentals, dissenting opinions in appellate reports should be discouraged. When the relief granted on appeal permits or necessitates a new trial or further proceedings in the trial court, the issues raised on appeal should be discussed and determined in such manner that counsel and the trial court may be clearly guided in all further proceedings in the litigation."

In much condensed form, American Bar As-

3. In addition to Justice Bray, of the District Court of Appeal, the Committee included Judges Robert McWilliams (San Francisco), Clarence M. Hanson (Los Angeles), and Samuel L. Finley (Crescent City), of the Superior Court, and Judge Philbrick McCoy (Los Angeles), of the Municipal Court.

4. Copies of the California canons can be obtained from *Los Angeles Daily Journal*, 121 North Broadway, Los Angeles 12, California, at ten cents a copy to cover cost of handling and mailing.

5. Cal. Civil Code, sec. 70.

6. Cal. Code Civil Proc., sec. 170.

7. See: Wilson, J., concurring, in *Smith* v. *Lagerstrom*, 93 Adv. Cal. App. 4, 7 (93 Cal. App. 2d ——); McComb, J., dissenting, in *Priebe* v. *Sinclair*, 90 Adv. Cal. App. 93, 101 (90 Cal. App. 2d ——). See: 35 A. B. A. J. 576 (July, 1949).

sociation Canons 25 and 26 appear in the California Code as Canons 21 and 22. They read:

"21. *Business Promotions.*

"A judge should not participate in, or permit the use of his name in connection with any commercially sponsored advertising program, with or without compensation, even though such program purports to be for the benefit of the public or even though the compensation offered is to be donated to charity."

"22. *Personal Investments and Relations.*

"A judge should refrain, as far as reasonably possible, from all relations which might affect him in the impartial performance of his judicial duties. He should not utilize information coming to him in his judicial capacity for purposes of speculation."

The only substantial change made in A.B.A. Canon 28, relating to participation in partisan politics, was to permit the making of nonpartisan political speeches. If, briefly defined, politics is "the science and art of government; the science dealing with the organization, regulation, and administration of a state, in both its internal and external affairs; political science" (Webster's International Dictionary, 2d Ed.), then it would seem that a judge makes a "political speech" whenever he talks about the constitution or any other related topic before a service club or any similar organization. The Conference felt that such political speeches are eminently proper and that only partisan political speeches should be proscribed.

The principle stated in the second paragraph of A.B.A. Canon 28, that a judge seeking nonjudicial office should resign his judicial office when he announces his candidacy, is not included in California Canon 26, which is otherwise identical with, and limited to the first paragraph of Canon 28. The Constitution of California expressly provides "that a judge of the superior court or of a municipal court shall be eligible to election or appointment to a public office during the time for which he may be elected."[8] In recent years several judges of the superior court, without resigning their judicial offices, have campaigned for and been elected to high nonjudicial office in the state without condemnation, and the majority of the judges believe that the canons should not forbid what the constitution permits.

A.B.A. Canon 31, relating to the practice of law by judges, is too general, in that it applies to all the States. The new California Canon 27 conforms to the provision of the California constitution (Art. VI, sec. 18), and states that "a justice or judge of a court of record should not practice law in or out of court." The California canon also incorporates the last paragraph of A.B.A. Canon 31, which permits a judge to act as arbitrator, or lecturer in law, or to write on legal subjects, if such acts do not interfere with his judicial duties and are not forbidden by law.

The California Canons end with Canon 30, relating to publicity of court proceedings. The right of the press to take photographs in the courtroom has long been a bone of contention. A.B.A. Canon 35, forbidding photography in the courtroom at all times and the broadcasting of court proceedings, was adopted in 1937. The subject has long been debated in California.[9] The Conference finally adopted the following Canon 30, which, it will be seen, does not prohibit the taking of photographs in the courtroom during recess, but, by implication, leaves it up to the individual judge in his discretion to regulate such conduct in his own court.

"30. *Improper Publicity of Court Proceedings.*

"Proceedings in court should be conducted in an atmosphere of fairness and impartiality, and with dignity and decorum. The taking of photographs in the courtroom during court proceedings or broadcasting, or recording for broadcasting, all or any part of a proceeding before a court by radio, television, or otherwise, is an improper interference with judicial proceedings and should not be permitted by a judge at any time."

The Conference also adopted A.B.A. Canons 3, 12, 15, 16, 22, and 24, with minor modifications, and omitted A.B.A. Canons 34 and 36.

The Canons of Judicial Ethics adopted by the California Conference of Judges reflect the views of all members of the Conference. During the year, questionnaires were sent to 287 judges and bar association presidents, and the committee received 64 replies. Only three judges were opposed to the adoption of any canons whatever, one saying that he felt that a judge should have "no ethical string around his finger to remind him to be honest or to do his duty." "Judges," said Justice Bray in presenting his report, "are peculiar creatures and

8. Cal. Const., Art. VI, sec. 18, as amended Nov. 4, 1930.

9. See: McCoy, "A Note on Judicial Ethics in California," 22 So. Cal. L. Rev. 240, at p. 246 (April 1949).

seem to have a constitutional aversion to agreeing on anything." The rule thus stated did not apply in the present case, however, since the Conference, after extended discussion, unanimously adopted the canons as outlined above.

The Conference does not intend that the canons shall become a dead letter. With their adoption, the Conference directed the incoming president to appoint an advisory committee on judicial ethics, and instructed the new committee to consider the question of sanctions and make its report to the Conference in 1950. In its advisory capacity the committee will doubtless function in a manner comparable to the several long-established committees on professional ethics. It is apparent that the judges of California are mindful that it is their primary responsibility to see to it "that the character and conduct of a judge should never be objects of indifference" within their own ranks, and that they should live up to the ethical standards which people have a right to expect of them.

The Number and Length of Judicial Opinions

By ARCHIBALD KING

"The most important thing about the decision of a case is that it be decided right."

SCARCELY an issue of this JOURNAL appears without there being in it something, an editorial, an article, or a letter, in favor of a reduction in the number and length of judicial opinions. It is obvious that an opinion ought not to be written unless there is a good reason for doing so, and that length is not a merit in itself. But there are grounds for the existence of opinions, and in many cases for their being of substantial length; which, so far as this writer has observed, have not been mentioned in this JOURNAL, and which appear to him to be of greater importance than the saving of library space and a few dollars. Therefore, at the risk of being considered an *advocatus diaboli*, the writer begs leave to submit certain reasons why the arguments of your contributors, against the production of so many opinions, and in favor of the brevity of such as are written, ought not to be pushed too far.

The writer has never been a judge or written a judicial opinion, but the greater part of his professional life has been spent as an officer of the Judge Advocate General's Department of the United States Army. As such he has written hundreds of opinions for the signature of the Judge Advocate General, or for his own signature on behalf of that officer. These were in answer to requests for legal advice by the Secretary of War, the Chief of Staff of the Army, or some other officer. The questions propounded to the Judge Advocate General are much like those put to the Attorney-General, and the form of their opinions is much the same. The writer has also written many opinions as a member of the Board of Review in the Judge Advocate General's office, the duty of which board is to pass upon the legal validity of sentences of general courts martial.[1] These opinions closely resemble those of a court of criminal appeals. He therefore believes his experience to be relevant to the present problem.

The most important thing about the decision of a case is that it be decided right, i.e., in accordance with law. In comparison with that, such matters as whether there shall be a published opinion, and, if so, its length, are as dust in the balance. Does the existence or the length of an opinion have any bearing upon the cor-

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1. This board was created by former Article of War 50½, 41 Stat. 797, 10 U. S. Code 1522; now repealed and superseded by the present Article of War 50, 62 Stat, 634, 10 U. S. Code (pocket part) 1521.

rectness of the decision? In many instances arising during his work as a judge advocate, after reading the record or other papers in the case, the writer's first impression has been that it should be decided a certain way, and he has begun a draft of an opinion accordingly. Then to his surprise he has found it impossible to write a logical opinion, convincing to himself, deciding the case that way; and has been compelled to write one holding the opposite. Writing an opinion compels research which otherwise might not be done, or so thoroughly done. Research tends to produce conformity with prior decisions, which is usually the equivalent of correctness in law; or, alternatively, it leads to careful consideration before departing from the precedents.

There have occasionally been cases in which because of the necessity for an immediate response, or for some other reason, the Judge Advocate General has given a short answer, yes or no, to the question put to him, with little or no reasoning. In one or two of these, the writer is convinced that, if a full opinion had been required, the case would have been decided otherwise, because the effort to write an opinion would have shown the error of the position taken. The draftsman would have been unable to produce a reasoned opinion, deciding the case as it was in fact decided, to which he would have been willing to affix his initials, or which the Judge Advocate General would have been willing to sign. For a judge, as for an advisory officer such as the Judge Advocate General, to be obliged to prepare a reasoned opinion, to be made public, on the correctness of which and of other opinions by him he must stake his professional reputation, is the best way to make sure, so far as can humanly be done, that cases will be decided right, in accordance with law.

An opinion should not only be correct as a matter of law, it should also convince the reader that it is so. The writer has once or twice been told by his superior, "I am sure that that draft of an opinion which you submitted yesterday is right, but it is too long." Military subordination has prevented the answer which might otherwise have been made, "Perhaps, if it had been shorter, it would not have been so convincing." The Judge Advocate General must not only advise correctly with respect to the questions propounded to him, he must convince the Secretary of the Army and his other superiors, who are often lawyers, that he has done so. The situation of the judge is the same. To protect his own professional reputation he will want to convince his readers that he is right, but the matter goes deeper than any individual judge's reputation. The courts in general, and the appellate courts in particular, should not only be right, they should also be respected. They will not be respected unless they convince the readers of their opinions that, at least most of the time, they are right. How can they do so otherwise than by writing full, reasoned opinions? As cases which are free from doubt rarely reach an appellate court, a brief memorandum opinion will not usually suffice.

In every litigated case, one party has to lose. The unsuccessful litigants are considerable in number; and, since no lawyer can win all his cases, the losing attorneys constitute the entire bar. It is desirable, as a matter of public relations of the court, that this large body of defeated litigants and their attorneys regard the court which has decided against them with respect, if not with agreement and affection. How can this be done otherwise than by a reasoned opinion, in which the arguments of the lawyer for the losing party are carefully considered, even though they are rejected?

A reasoned opinion is therefore, in most cases, necessary in order to maintain the reputation of the court and obtain for it the respect which it should have.

It is also most desirable that the law be certain and known. Does the existence or length of a judicial opinion have anything to do with the attainment of this desideratum?

A client calls upon a lawyer and states the facts of his case. The lawyer searches the precedents, but rarely finds one in his jurisdiction in which the facts were precisely the same. He does, however, find a case in the highest court of his jurisdiction similar to that before him, but with some differences. Are those differences of such importance that the precedent would not be in point, or are they immaterial? This is an every day problem for a busy lawyer. How does he solve it? By studying the opinion in the earlier case, extracting the *ratio decidendi*, and applying it to the case of his client. But, if there is no opinion, the lawyer will probably never learn

of the existence of the earlier case; or, if he does, he can only guess what was the principle on which it was decided. If the court wrote only a skeleton opinion with little reasoning, or none at all; the attorney may perhaps be able to ascertain the general principle of the decision, but he will have difficulty in determining the scope and limitations of the principle, and whether or not his case falls within it.

There are therefore three excellent reasons for full, reasoned opinions by appellate courts:

a. Cases are much more likely to be decided correctly on the law, if such opinions are written.

b. The writing of such opinions goes a long way to convince the bar, litigants, and the public, that cases are carefully considered and rightly decided; and thereby increases respect for the courts.

c. The law is more certain and better known if such opinions are written.

Let us consider a particular case, *Myers* v. *United States*,[2] holding unconstitutional a statutory provision[3] that a postmaster appointed by the President by and with the advice and consent of the Senate might not be removed by the President without the like advice and consent. The opinion of the Supreme Court, by Chief Justice Taft, occupies 72 pages in the United States reports. It tells in detail of the debate in the First Congress under the Constitution, in which sat many men who had been members of the Constitutional Convention two years earlier; judicial decisions from an early date to a period then recent; the opinions of Hamilton, Kent, Story, and Webster; the messages of Presidents; and the struggle between President Johnson and Congress; all dealing with the power of removal from office. It is a complete and documented history of the development of American constitutional law on the powers of appointment and dismissal. To this reader it is convincing, and he does not see how it could have been so to the same degree if it had been materially shorter.

Many of those who advocate brevity of judicial opinions attack the practice of quoting earlier decisions or other authorities as unnecessarily increasing the length of opinions. These critics are taking on a large order. English and American judges from the Year-Books to the present time have used quotations freely. It has already been pointed out that a judge ought not only to decide cases rightly, i.e., according to law; but that, in order that the court may be respected, he ought to prove that he is right. How can a judge justify his decision more clearly and convincingly than by showing that he is treading in the footsteps of his predecessors? And how can he do that better than by quoting their opinions?

Chief Justice Taft's opinion in the *Myers* case is replete with quotations, and it should be. Many of the works quoted are rarely found in a law office, but only in a large public or university library. Even a citation to a volume in any law office is not as satisfactory to the reader as an apt quotation. In most instances, he will not take the trouble to get down the volume and hunt for the page; and, if he does, the flow of the judge's discussion and of the reader's comprehension of it is interrupted thereby. Nor is an abstract of the earlier case by the present judge always a good substitute. Though a judge of an appellate court would not intentionally misrepresent a precedent, there may be differences of opinion as to what a case actually held. The *ipsissima verba* of the earlier case are more accurate, and often more forcible and more convincing. No rule or policy should be adopted forbidding or deprecating the use of quotations.

It is not contended that an appellate court should write a full, reasoned opinion in every case. There are no doubt some in which a citation of a ruling case or other brief memorandum opinion will be sufficient. Neither should any opinion be longer than is necessary to show that the decision is right. But rules designed to secure brevity in opinions, such as those published in the June number of this JOURNAL,[4] should not be too restrictive; and should be regarded at most as friendly advice to the judge, which he may disregard in any particular case if he sees reason to do so, and not as a strait jacket for him. In any case in which a real issue is presented, the author of a judicial opinion owes it to himself, to the court of which he is a member, to the legal profession, and to the nation or state which

2. 272 U. S. 52 (1926).
3. Sec. 6, act of July 12, 1876; 10 Stat. 80.
4. Vol. 33, p. 5 (1949).

he serves, to make his opinion as convincing an argument as he can for the correctness of the decision; and no shortening of the opinion should be required, or even permitted, which makes it the less so.[5]

5. That the author's views have support from those better qualified than he to express an opinion on this subject may be inferred from letters from three judges of appellate courts, with whose friendship he is honored, and to whom he submitted copies of the present article. The writers of all these letters expressed general concurrence; and one of them, Mr. Justice Frankfurter of the Supreme Court of the United States, has kindly consented to the quotation of the following sentence from his letter:

"It is absurd to lay down mechanical rules for opinion writing by appellate courts, above all by the Supreme Court of the United States, and reasoned opinions, including dissents, by the highest courts on the merits of substantive questions of law can be dispensed with only when law can be dispensed with."

Use of Majority Verdicts in the United States

STATE	CASES	COURTS	MAJORITY	CONDITIONS	CONST.	STATUTE
Arkansas	civil	.....	9/12	.....	II-7	Const. amended, 1928
Arizona	civil	superior	any	consent	II-23	Code 1939, 21-1001, 21-1003
California	civil	.....	3/4	.....	I-7	Deering, C.C. 613
Colorado	civil	.....	any	consent	.....	Rules C.P., 48
Connecticut	civil	.....	9/12	consent	I-21	G.S. 1949, 7971 13 Haw. 705
Hawaii	civil	.....	any	consent	.....	(1901)
Idaho	civil	.....	3/4	.....	I-7	Code 1947, 2-104
	misdemeanor	.....	5/6	.....	I-7	Code 1947, 19-1902
Iowa	civil	.....	any	consent	I-9	Code 1946, R.C.P. 203
Kentucky	civil	circuit	3/4	.....	248	Rev. Stat. 1948, 29.330
Louisiana	civil	.....	9/12	.....	.....	CPC 527, 532.10; G.S. 1958
	crim. less than death penalty	.....	9/12	.....	VII-41	Crim. Code, 338
Minnesota	civil	of record	5/6	12 hrs. deliberation	I-4	Stat. Ann., 1945, 546.17
Mississippi	civil	circuit, chancery	3/4	request	III-31	Code, 1942, 1801
Missouri	civil	not of record	2/3	.....	II-28	Rev. Stat. 1939, 2662
	civil and below felony	of record	3/4	.....	II-28	Rev. Stat. 1939, 719
Montana	civil	.....	2/3	.....	III-23	Rev. Code, 1935, 9358
Nebraska	civil	.....	5/6	6 hrs. deliberation	I-6	Rev. Stat. 1943, 25-1125
Nevada	civil	.....	3/4	.....	I-3	Comp. Laws 1929, 87766
New Jersey	civil	.....	5/6	.....	.....	Rev. Stat. Supp. 1948, 2:27-233.1
New Mexico	civil	.....	10/12	.....	12	R. C. P., 48
New York	civil	.....	5/6	.....	1-2	Cahill N.Y.C.P. 1946, 463a
Ohio	civil	.....	3/4	.....	I-5	Throckmorton's Code Ann. 1948, 10350
Oklahoma	civil and below felony	.....	3/4	.....	II-19	.....
Oregon	civil	.....	3/4	.....	VII-5	.....
	crim. other than 1st deg. murder	circuit	10/12	.....	1-11	.....
Panama Canal	civil	.....	3/4	.....	.....	C.Z. Code, 4-467
South Dakota	civil	j.p. and municipal	3/4	.....	VI-6	Code 1939, 33.1334, 33.2808
		all others	10/12	.....	VI-6	Code 1939, 33.1333
Utah	civil	.....	3/4	.....	1-10	Code Ann. 1943, 104-24-27
Virginia	civil	.....	2/3	consent	.....	Code Ann. 1942, 6012
Washington	civil	superior	10/12	.....	1-21	Rem. Rev. Stat., 1931, 358
Wisconsin	civil	.....	5/6	.....	I-5	Stat. 1947, 270.25
Federal	civil	.....	any	consent	.....	Fed. R.C.P. 48

Modern Court Services for Youths and Juveniles

By GLENN R. WINTERS

A FREQUENT SIGHT around Ann Arbor the past week or two has been an automobile driven slowly down a busy street with a deer fastened to the fender or hood. Drivers of cars so decorated never seem to be in a hurry, at least after they reach town, and I doubt if Judge Payne ever has been called upon to discipline one of them for speeding. The newspapers said there were more deer this year than last year, and hunting was permitted even in the lower counties of the state, for the first time in many years. This did not come about by accident. There would be no hunting at all, and very little fishing, in Michigan, without our state's carefully planned program of wild life conservation.

America is a land of vast resources—not only wild life, but timber, coal, oil, minerals, farm lands. They once were looked upon and treated as though they were inexhaustible. Hunters ate only the hump of the buffalo and let the rest of the carcass go to waste. Today only a few buffalo survive in the national parks. We have come to realize in recent years that the rest of our resources will go the same way unless conservation measures are undertaken, and conservation is getting major consideration from both state and federal governments these days.

Natural resources alone cannot make a nation great. Petroleum in the ground is worth no more than dirt. It becomes valuable only as *men and women* bring it up and put it to use. The most important resources of any nation are its human resources. Human beings are at once cheap and priceless. Throughout a large part of the earth's surface overpopulation has been a problem for centuries, and in those lands human beings are almost literally a dime a dozen. At the same time they are priceless in that each individual is unique and irreplaceable. A burnt-over forest can be reseeded and in forty years you have another forest as good as the old and probably better. No increase in population, however, ever can make up for the boys we lost in the recent war. Other generations will be other people. Those people are lost forever. Every person is unique, priceless, irreplaceable, sacred. This principle is fundamental to American religious and political tradition. The parable of the ninety and nine gives the Christian view of the importance of the individual, and a major difference between our government and those we speak of sometimes as totalitarian and sometimes as "collectivist" is that they believe the group is more important than the individual and we believe the individual is more important than the group.

The death of a person is a loss both to himself and to the society to which he belongs, and

Only a few survivors of the great herds of buffalo that once roamed the western prairies now live in the shelter of the national parks. Wild life conservation is protecting other animals from such a fate, but conservation of human resources is more important than conservation of natural resources.

GLENN R. WINTERS is secretary-treasurer of the American Judicature Society and editor of the JOURNAL. This was an address before the Ann Arbor League of Women Voters, and appears here by permission of the *Marquette University Law Review*, in the Fall issue of which it was first published.

part of the conservation of human resources is the prevention of needless loss of life. Men throughout all ages have realized, however, that there are some things worse than death. A man is lost to society not only if he is physically removed from it by death, but also if he ceases to be a cooperating member of it and conducts himself in a manner inimical to the welfare of other people. Such a man becomes a liability instead of an asset to his community, and his presence not only endangers other people but necessitates the expenditure of money and the time and effort of other people to protect the public from him. Complete conservation of human resources means ensuring so far as possible a normal, useful, constructive, happy life for every person.

Fortunately, the great majority of us prefer and attempt to live that kind of life, and succeed to some extent. Probably none of us reaches his full potentialities, but the problem of aiding and stimulating such people to greater achievement is outside of the scope of our subject today. For the present we are concerned about the conservation of every man and woman, every boy and girl, as a participating, cooperative member of the social group, and the measures to be taken with those who for any reason at all find themselves at odds with society.

THE "LEX TALIONIS"

At the dawn of human community life this was strictly the problem of the individuals concerned. If one man committed an act of violence against another, it was up to the victim or his relatives to take action, usually in the form of reprisal. Groups went to war against other groups, and perhaps the first group action against a member was for treason—an insider working for the other group. At any rate, both when justice was on a man-to-man basis and later when the group did take it over, it was a matter of warfare. If a man declared war on society, society declared war on him. Punishment was retaliatory—an eye for an eye and a tooth for a tooth, and the death penalty was the most frequent of all.

I would like to be able to say that this primitive concept of society's attitude toward an erring member disappeared about the time of the iron age, or somewhere around the dawn of recorded history, or at least far back in antiquity, but the fact is it has not disappeared yet. Criminal justice still is administered on that basis more than any other, not only in less enlightened countries but in our own as well, and with public approval too. The enforcement of the criminal law still means, to the general public, a war against the lawbreaker, and on the radio, on the screen, in the funny paper, in our magazine stories and in our books it is endlessly dramatized in that fashion for our amusement.

Some of the corollaries of the warfare theory are both interesting and important. It assumes, in the first place, that people commit crime because they deliberately choose to do the wrong thing rather than the right. Little four-year-old Kathie astonished Mrs. Winters and me the other day by remarking at the dinner table, "Mama, it's *on purpose* to kill people, isn't it?" A little reflection brought out the source of that thought. She had often heard her playmates defend themselves by saying, "But I didn't do it on purpose!" What could be more natural than to identify "on purpose" with wrong itself? Her idea, quaint as it was, long ago constituted one of the first great reforms in criminal justice. Primitive peoples were not interested in motives. If a man killed another by accident he paid the penalty just the same as if he had done it "on purpose." It was the church that stepped in, ages ago, in defense of the man who had not done it "on purpose" and established the principle still basic to our criminal law that without an intent to commit crime, there is no crime. As Blackstone put it,

> "Punishments are inflicted for the abuse of that free will which God has given to man; consequently it is just that man should be excused from those acts done involuntarily or through unavoidable force or compulsion. . . . An involuntary act has no claim to merit, neither can it induce any guilt."[1]

The identification of crime with sin resulted in identification of the fate of the criminal with the fate of the sinner—punishment to expiate or atone for the crime. It is important to note that expiation is concerned with the deed, not with the person. The greater the crime, the greater the punishment, no matter who the person involved might be. This idea

1. Quoted by Clarence E. Manion, 32 J. Am. Jud. Soc. 71 (1948).

The goddess of justice is usually represented as blindfolded to emphasize that she is "no respecter of persons." We are learning, however, that she can dispense a better grade of justice in many instances by looking at the person and occasionally even ignoring the crime.

is embodied in the conventional representation of the goddess of justice, holding in her hand a set of scales and with a blindfold across her eyes. One side of the scales is for the crime, the other side for the punishment, and justice is done when they balance; while to make sure that the goddess treats everybody alike, she is kept from looking at the person involved.

It was once a mark of progress to identify crime with sin and thus protect some who would otherwise have been unfairly punished, and to blindfold Justice to keep her from letting off the rich and influential with a slap on the wrist and venting her fury on the poor and friendless, but both of these concepts need reexamination today. It is not true, for example, that all crimes are committed because of a deliberate choice of wrong over right. One girl entirely normal up to the age of sixteen suffered an attack of encephalitis—inflammation of the brain—and thereafter was a confirmed liar and thief. Physical damage to portions of her brain tissue was responsible for the change in her conduct.[2] One boy turned up in court with a long record of truancy and petty crimes of increasing magnitude. It was discovered that the nickname "Stinky" particularly enraged him and incited him to misconduct, and that because of a glandular irregularity his body did have an offensive odor. Once this was corrected by surgery, nobody called him "Stinky" any more, and he was more than eager to live and act like other boys.[3] All of us know that many physical and environmental factors influence our conduct—there is not a one of us that is not more nervous and irritable after a sleepless night. Actually, our conduct from day to day—from minute to minute—is guided by an infinitely complex pattern of influences, hereditary and environmental, physical, mental and emotional, extending from birth and before right down to the events of the preceding moment. This alone, entirely apart from the question of conserving human resources, is sufficient reason for unpinning the handkerchief from the eyes of the goddess of justice and giving her a chance to look at the person, and, in some instances, also permitting her to ignore the deed.

SMALL CHILDREN AND THE LAW

With respect to criminal behavior it is convenient to divide people into four age groups: 1. Children under the age of seven. 2. Youngsters from seven up to around sixteen. 3. Youths from that age up to twenty-one. 4. Adults of twenty-one and over.

Medieval churchmen, unwilling to consign dying babies and small children to eternal punishment for their childish misdeeds, established seven years as the age below which sin could not be committed. The criminal law followed along and fixed seven as the youngest age at which a child was capable of crime. The relation between the civil government and children under seven was that of guardian and ward. The Latin phrase was *parens patriae*—the state was a foster parent, and as such concerned with the care, protection and training of children left in its charge. All this abruptly ended at the age of seven, however, so far as legal theory was concerned, and too often practice as well. Criminal offenders from that age on up were dealt with as enemies of the state, tried in the regular criminal courts, and confined in penitentiaries along with older convicts of all types. Again, I would like to be able to say that this is a matter of ancient history, but it is too true that locked up in jails and other houses of detention this very day and hour are thousands of children from seven to sixteen years

2. John R. Ellingston, *Protecting Our Children from Criminal Careers* (1948), p. 16.
3. *Ibid.*, p. 69.

of age, in the "care" of law enforcement officers of our states, counties and cities.

THE JUVENILE COURT

Charles Dickens and his great social novel *Oliver Twist* led off the movement for reform of this deplorable condition both in England and in other English-speaking countries, including our own, about a hundred years ago, although without doubt many sympathetic judges stretched the law for that purpose long before and made use of the suspended sentence and probation to mitigate its severity as they were introduced. In 1869 a Massachusetts law was passed to provide for a "visiting agent" to sit in on hearings and advise judges regarding disposition of children under sixteen, specifically charged with the duty of working "not for the punishment of the child, but for the child's welfare." A year later provision was made for separate hearings for juveniles in Massachusetts. Rhode Island, New York and various other states soon followed Massachusetts' example. It became increasingly clear that an ordinary criminal court was no place at all for young boys and girls, and in 1890 Australia led the way with the establishment of the first children's courts. In this country, a special juvenile court was first proposed in the 1891 Illinois legislature for Chicago. It passed in 1899, simultaneously with the setting up of the Denver Juvenile Court, which was the first to go into operation, under Judge Ben Lindsey, outstanding authority on juvenile delinquency, since removed to Los Angeles. The idea spread rapidly, and juvenile courts now exist in every state. In most localities they are operated in conjunction with other courts, such as district, superior, common pleas and probate courts, but in every city of metropolitan size there is an entirely separate court especially designed for children's work.[4]

The properly organized and managed juvenile court differs so much from other courts that the very word is hardly applicable to it, and indeed it would be all to the good if it were abandoned. In the first place, there is a complete absence of courtroom atmosphere. The attitude of the judge and officers of the court is one of sympathetic understanding and concern for the child's welfare. The particular act which brought the child under the jurisdiction of the court is of interest only as it sheds light on the problems and needs of the child. Probation, under expert supervision of the court, is the rule for disposition of cases, and when detention is necessary, either before or after the hearing, it is in special detention quarters unlike a jail or prison, and not in company with older criminals. Juvenile court records are complete and adequate, but they are kept in strict confidence, in contrast with most other court records which are public property available for inspection by anyone. Finally, a good juvenile court makes routine mental and physical examinations of all children that come before it, and supplies the judge with complete background information from home and school to assist him in deciding what should be done.[5]

Children who have violated the criminal laws are often looked upon and treated as enemies of the state, rather than as wards in need of care and guidance.

THE JUVENILE COURT AS A HOSPITAL

Judge Paul W. Alexander of Toledo, one of the leading juvenile court judges of the country, has compared the juvenile court to a hospital:

"If a person's bodily functions deviate so far from the normal that he cannot be properly treated in his home, he is ordered to a hospital. If a child's conduct deviates so far from the normal that it cannot be successfully corrected in the home, he is ordered to a juvenile court. The hospital's function is to cure the patient and prevent him from becoming a chronic in-

4. Barnes and Teeters, *New Horizons in Criminology* (1943), p. 922 ff.

5. See *ibid.*, pp. 923-929, for full discussion.

valid; the court's is to correct the child and prevent him from becoming a chronic criminal.

"The hospital's primary concern is the individual patient; it serves society first by curing the patient and restoring him to society as an able-bodied citizen, and second through research, developing techniques, disseminating knowledge, preventive medicine, and by quarantining the occasional dangerous patient. The court's primary concern is the individual child; it serves society first by reclaiming the future citizen, second through research, developing techniques, disseminating knowledge, leadership in preventing delinquency and crime, and by quarantining the occasional dangerous child. . . .

"After diagnosis, medical science prescribes the proper treatment for the patient; after diagnosis, the court does the same thing for the child. The hospital doesn't treat symptoms. It doesn't try to cure the fever patient by locking him in a refrigerator. No more does the court treat symptoms. It doesn't try to cure the truant by locking him in a school-room.

"The hospital sometimes inflicts pain upon the patient, but only to cure or protect—never to get even. If the court finds it necessary to hurt the child it is always done for the purpose of disciplining or teaching him—never for the purpose of punishing or getting even with him. Juvenile courts do not punish."[6]

THE CHILD GUIDANCE CLINIC

Judge Alexander would approve a slight extension of his analogy. Associated with most hospitals, but sometimes independent of them, are clinics where patients may go for examination, diagnosis and preventive treatment before anything as drastic as hospitalization is required. Facilities for investigation and examination already have been mentioned as part of the equipment of an adequate juvenile court. The services rendered by an enlightened community to its children are not complete unless those or similar facilities are made available on an out-patient basis to juveniles who have not yet run afoul of the law but are in danger of doing so unless their maladjustments are corrected and their difficulties straightened out by someone who can reach them in time and knows how to go about it. Such an institution may be called by a variety of names, but it is known generically as a *child guidance clinic.*

The first pioneering in this field was at the University of Pennsylvania around the turn of the century when so much progress was made in dealings with juvenile offenders. The first institution properly fitting the name was called the Juvenile Psychopathic Institute, and was established in Chicago in 1909, originally primarily as a research organization, but in cooperation with the Chicago Juvenile Court it developed extensive services in the fields of diagnosis and prognosis. About twenty-five years ago the National Committee for Mental Hygiene set up a Division on the Prevention of Delinquency, and about the same time the Commonwealth Fund of New York established a Joint Committee on Methods of Preventing Delinquency to coordinate, encourage and publicize the work of the Mental Hygiene group and certain other organizations at work on like projects. By means of demonstrations made possible through their joint efforts, they were able in five years to establish permanent child-guidance clinics in eight important metropolitan communities. The results were amazing. New clinics sprang up by the hundreds in all parts of the country, and today there are few communities of any size without their services.[7]

From the report of Governor Sigler's Advisory Council on Corrections, to be published this week, I quote the following excellent description of the work of a child-guidance clinic, as exemplified in the Michigan Children's Centers:

"The purpose of the Children's Centers is to provide public resources for the study of and assistance to maladjusted children, including both the delinquent and the non-delinquent child. All ages of children are included, from birth to even beyond the high school period. Besides the children actually admitted to the Children's Centers, they serve in a consultive capacity to local groups interested in problems of child development. Their primary function is preventive, but within the limits of their facilities and personnel they also undertake correctional therapy.

"The Children's Centers are organized under the state Department of Mental Health. The state provides the salaries of their basic staff, which in each case consists of a psychiatrist, a psychologist and a psychiatric social worker. [In other states a medical doctor usually is included, and here, too, provision is doubtless made for physical examination whenever necessary.] In addition, local groups, including counties and community chests, assume responsibility for providing office space, secretarial help and other incidental expenses. For each Center there is a local advisory board which acts as a liaison between the community and the clinics.

6. Paul W. Alexander, "Of Juvenile Courts and Judges," *National Probation and Parole Association Yearbook* (1947), p. 187, at p. 191 ff.

7. Barnes and Teeters, *loc. cit.*, p. 930 ff.

Service is free to all children who are accepted by the clinics.

"A wide variety of child problems come to the attention of these clinics maintained by the Children's Centers, including behavior disorders, personality and habit defects, and educational maladjustments. Referrals are made by parents, schools, visiting teachers, courts, ministers, physicians, as well as by other private and public agencies. The Centers maintain the right to select the types of children who will presumably benefit most from their service. In relation to delinquents the Children's Centers function in two ways: They afford a diagnostic service available to the probate courts in determining the disposition of the case of a given delinquent child, and children on probation may be required to make use of the clinical services of the Children's Centers. This latter type of service may mean that the parents are required to make several visits to the clinic with the child during his probationary period."

From the standpoint of conservation of human resources, here is the most useful and promising institution of all. A fence around the top of the cliff is better than an ambulance down in the valley.

Many other institutions and agencies besides those here mentioned are at work in the prevention of juvenile delinquency and the restoration of delinquents. We will not attempt to discuss any more of them here, for we are concerned with the problem from a legal and judicial standpoint, and the medical, psychiatric and social aspects, which are of predominating importance even in the juvenile court, completely take over elsewhere.

THE WAYWARD MINOR GROUP

The age of sixteen or thereabouts is an important dividing line in the classification and treatment of criminal offenders. Juvenile court procedure is predicated upon the invariable practice of children to confess their crimes in full. Older boys have learned to stand mute or deny them, and justice demands in such cases that their guilt or innocence be established by conventional legal process. Youngsters may steal an automobile, set fire to a building or do other felonious acts, but the bulk of their offenses are such matters as truancy, malicious mischief, petty thievery, and other lesser crimes. Youths in their later teens, however, not only indulge in all the crimes in the catalogue, but play a leading part in them. Just before the war the group between the ages of sixteen and twenty-one constituted over 35 per cent of all admissions to prisons, reformatories and like institutions in New York.[8] These youths commit a major portion of the crimes of violence which make the headlines, and their inexperience and lack of judgment make them relatively easy to catch. They present quite a different problem from criminals of any other age group, and a special terminology has been applied to them. Younger offenders are juvenile delinquents; these are "wayward minors." Both phrases really mean about the same thing, but they are not used interchangeably.

More than a hundred years ago a voluntary group established a work colony in England for the reclamation of criminal youths between the ages of sixteen and twenty, taking advantage of an ancient law by which such persons might be hired out in husbandry. In 1897 Sir Evelyn Ruggles-Brise, director of English prisons, set aside for male prisoners between the ages of sixteen and twenty-one a special prison in a Kentish village named Borstal, and organized an association of volunteers afterwards organized as the Borstal Association, for the purpose of visiting and befriending these boys during their imprisonment and helping them after their discharge. From these beginnings developed the renowned English Borstal System, now embracing youths of sixteen through twenty-three, and consisting at one time of nine corrective institutions, some of which have since been closed, of various types and grades ranging from a maximum-security walled prison for hardened criminals within that age group to agricultural and other work camps for more promising boys, all of whom are kept until ready to resume the responsibilities of free life, when they are released under the supervision of the Borstal Association.[9]

In this country, Chicago again has the distinction of being the pioneer. In 1914 the Chicago Municipal Court instituted a special division known as the Boys' Court with jurisdiction over misdemeanors and quasi-criminal offenses committed by boys from seventeen to twenty-one. This was not an extension of the juvenile court. Its original purpose was to separate young from adult criminals. It did, however,

8. Ellingston, *loc. cit.*, p. 11.

9. For a full account of the Borstal System, see Barnes and Teeters, *loc. cit.*, pp. 560-568, which draws extensively from Healy and Alper, *Criminal Youth and the Borstal System* (1941).

attempt to dispose of as many cases as possible without court action, and to substitute preventive for disciplinary treatment. This has been the pattern of special adolescent courts throughout the country.[10] Once a person has been convicted and sentenced, serious consequences follow, some of them for the rest of his life. He is denied important civil rights; he may never enter the leading professions, he has a handicap in securing employment; in short the plight of Jean Valjean in Victor Hugo's *Les Miserables* was only an exaggeration of that of every released convict today. Going through a juvenile court does not ordinarily attach that stigma, but a conviction by any other court does, and a leading objective of proceedings under the Wayward Minors Acts of New York, Michigan and other states is to attempt to get the youths on their feet again without the stigma attached to the word felon. Adolescents courts in Brooklyn and Queens and the General Sessions Court in Manhattan, the former two operating under the Wayward Minors Act, have done the best they could under a well-meaning but imperfect law. In the middle of the last decade a Delinquency Committee of the Community Service Society of New York City made some shocking findings as to the shortcomings of legal treatment of this class of youths in that city, and two of its members, Leonard V. Harrison and Pryor McNeill Grant, published just ten years ago an epoch-making book entitled *Youth in the Toils* to arouse public interest in the problem.[11] A few years before that, the American Law Institute, upon the completion of its model code of criminal procedure, had brought together a group of experts in criminology, psychiatry, sociology and social work along with leading lawyers and judges to see what might be done to improve the administration of criminal justice. The result was the model Youth Correaction Authority Act, published in 1940.[12]

THE YOUTH CORRECTION AUTHORITY

The Youth Correction Authority Act is beamed at the wayward minor group—ages sixteen to twenty-one. It assumes that they will go through the regular criminal courts of the state up to and including the point of conviction. At that point, unless the youth is merely to be fined, or sentence suspended, or unless he has committed a capital offense, he is committed to the Authority. That is the only sentence pronounced by the judge, and from there on the Authority takes over, makes such investigation as is warranted and administers whatever treatment it considers most appropriate for whatever length of time it deems necessary, the objective being the restoration of the subject to normal, productive life as soon as possible. Treatment may range from probation under supervision of the Authority, through occupational therapy in camps and on farms, to confinement in institutions of various grades of security.

Fortunately, one state was ready for this ambitious and revolutionary program. California had a tradition of social pioneering and experimentation, had led the way in development of the indeterminate sentence, and had already in existence an excellent forestry camp program for adolescent offenders. A remarkable coincidence paved the way for the introduction of the American Law Institute proposal. The state school for boys at Whittier had been an exhibition piece as the last word in scientific treatment of juvenile delinquents. When two boys committed suicide there in 1940 the governor appointed an investigating committee headed by Judge Ben Lindsey, the same man who established the Denver Juvenile Court, now removed to California. The Lindsey report, submitted December 6, 1940, was a devastating recital of medieval brutality and sadism carried on behind official indifference, and it profoundly shocked the faith of the people of that state in their existing correctional program. A statute setting up a system substantially in accord with the American Law Institute pattern was enacted by the 1941 legislature just a few months thereafter, and about a year after it had been published by the Institute. Bills were introduced at the same time in New York, Michigan, Pennsylvania, Rhode Island and Illinois, but no others were passed until last year when Wisconsin and Minnesota set up similar bodies. Massachusetts followed,

10. Barnes and Teeters, *loc. cit.*, p. 938 ff.
11. Macmillan, 1938.
12. The report of the original advisory committee presented to the Council of the Institute on January 30, 1935, appears in the Appendix to Vol. 12 of the Institute's *Proceedings* (1935), pp. 369-407. Progress reports appear in the reports of the director, Vol. 15 (1938), pp. 52-54, and Vol. 16 (1939), pp. 42-46. The final draft was adopted and published by the Institute in June, 1940.

with some modifications, this year, and others may follow in the legislative sessions soon to begin throughout the country. Important parts of the program meanwhile have been adopted in New York and New Jersey, and bills for a Federal Youth Authority were introduced in both houses of the Eightieth Congress.

None of these others have yet had a chance to get under way, and we must depend for a view of the Youth Correction Authority in action on the California experience, which is now nearly eight years old.[13]

The first unit of the California program is the diagnostic clinic. Here takes place the medical examination; the assemblage of a complete social and environmental background picture; psychological diagnosis to learn of possible psychological factors inclining the subject to crime and to uncover clues to constructive interest and activities that will assist in his rehabilitation; and a period of personal observation extending from four to six weeks. At the conclusion of this period all specialists who have participated in the case join in a conference where all findings are brought together and discussed and the most promising type of treatment is agreed upon.

A variety of facilities for different types of treatment are available. The Youth Authority has assumed charge of the state's probation department, which as in most states was undermanned and underpaid, and is making unprecedented use of this valuable corrective tool which not only saves the state most of the $1,000 a year which it currently costs to maintain a prisoner but in properly selected cases offers a maximum opportunity for rehabilitation by giving the subject the sympathetic and expert guidance of the probation officer in the favorable surroundings of normal life. For boys not quite ready for this kind of treatment two highly successful projects were developed during the war—employment of several hundred of them under the Authority's supervision in a wartime government arsenal and an ordnance depot, and in a forestry camp to fight fires and carry on conservation work. The boys responded amazingly well to the challenge of this useful and necessary work and the regular wages paid them. The forestry program has been continued and expanded as a permanent thing, to the immense benefit not only of the boys involved but the state's conservation program as well. For those not adapted to this type of treatment there are institutions of minimum, medium and maximum security, in all of which rehabilitative and corrective procedures so far as possible are the order of the day.

It is not possible here to make anything like a complete survey of the operation and effectiveness of the California program. It was handicapped at the start by the added burdens resulting from the war, and was subject to some criticism at times. Other states held off from following its example for several years, but the enactment of similar legislation by three other states in the past two years is an indication that the experimental stage is over and that the system is commending itself to others who have been watching it. Perhaps the greatest danger in connection with the establishment of a state Youth Correction Authority is the tendency of many people to feel that that in itself will be a solution to the problems of the juvenile delinquents and wayward minors. No change in administration can be of any advantage as long as the same old things continue to be done in the same old way. Neither is it possible simultaneously with the establishment of a Youth Authority to scrap overnight all existing institutions, personnel and procedures for the handling of young offenders. What a state Youth Correction Authority can do at once is establish conservation of human resources as the objective of the state correctional system at the top level of management, and by a gradual process of education and infiltration extend that policy throughout the system not only among the faithful staff members already devoted to it but elsewhere where too often it is held in cynical contempt or where lip service is paid to it along with methods and procedures inconsistent with it.

To avoid the unpleasant connotation existing in some minds against both of the words "Correction" and "Authority," the newer statutes have adopted more inoffensive titles for the agency created. Thus, we have the Minnesota Youth Conservation Commission, the Wisconsin Youth Service Division, and the Massachusetts Youth Service Board. Such a commission or board must be in a position to spend money

13. The bulk of John R. Ellingston's book *Protecting Our Children from Criminal Careers* (1948), previously cited, is devoted to a survey and analysis of the first seven years of experience in California under this Act.

on its program if results are to be expected, and it must be able to enlist public opinion in support of such a program by making people realize not only the value of the conservation of human resources, but that the pecuniary cost of crime is always with us in one form or another, that prevention and rehabilitation save more money than they cost, and that of all possible varieties of treatment straight institutional confinement is both the most wasteful of human resources and the most costly to the taxpayers.

THE ADULT GROUP

There is nothing about the corrective methods of either the juvenile court or the youth authority that would automatically make them inapplicable to adult offenders. Correctional work along these same lines undoubtedly would pay big dividends in that field also, and in 1944 California established an Adult Authority for that purpose. The emphasis on youth correction which has existed in the past and will continue to exist in the future is based simply on the principle that when you cannot reach everybody you should work where you can do the most good. Restoring to society a youth rather than a man saves the state more money in institutional costs avoided, and enriches the state by giving it the benefits of a longer productive life.

The time will some day come, however, when prisons and penitentiaries, except as segregation centers for hopeless misfits, will be looked upon as relics of a primeval system of criminal justice, when the combined resources of all available physical and social sciences together with churches and allied institutions will be focused on salvaging from the human scrap heap as high a percentage of usable residue as Swift and Company is able to recover from the carcass of a steer, and when those same resources will reduce accretions to the scrap heap to a minimum by affirmatively helping every member of society to find the niche where he can fit in with happiness and satisfaction.

Continuing Education for Lawyers in Capsule Form

By JOHN E. MULDER

THE responsibilities of a lawyer are both public and private. He has a public, or civic, duty to be a community leader, to participate in local, state, national or even international affairs, whether such affairs be of a political, charitable, or some other character. Much has been written and said about these public, "extra curricular" obligations.

The importance of the private responsibilities is sometimes ignored or overlooked. The first obligation of a lawyer is to his clients. He must handle their affairs as well as they can possibly be handled. This is a duty to his clients, his profession and to himself.

What do these private responsibilities involve? They involve a knowledge of changes in the law, both substantive and procedural. They involve brushing up on techniques, on "how to do it" aspects of the practice of the law. For example, when a substantial innovation takes place in legislation, such as the Revenue Act of 1948, the practitioner must learn about it as much as a doctor must understand everything about a new cure for the common cold. How else can he prepare income tax returns, or plan estates?

Even when called upon to prepare a partnership agreement, he cannot safely rely upon an old form from his files. Is the old form simply expressed, in terminology the client, who lives with it, can understand? Does the old form adequately provide for disposing, by pur-

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chase or otherwise, of a deceased or retiring partner's interest in the firm? Does the old form make use of life insurance for such purposes?

Does the lawyer know enough about the basic principles of accounting to be able to understand the financial records of his clients? Is he doing as good a job in litigation as he should?

Many of these items, such as the drafting of a partnership agreement, are rather ordinary. But because they are ordinary does not excuse a slipshod job of drafting. The commonplace matters are also important matters.

Most lawyers take each task as it comes. If the problem is new to them, they rush through the learning the hard way, and this, to the client, is the expensive way. Outside of reading a few periodicals from time to time, how many lawyers systematically continue to educate themselves in the art and substance of their craft? They can afford the time, for the time is well spent. And not much time or effort is involved.

What has been needed is an agency capable of bringing continued training, more or less in concentrated, capsule form, to the doorstep of every lawyer. That agency now exists—the Committee on Continuing Legal Education of the American Law Institute collaborating with the American Bar Association. The Committee has been functioning since February, 1948, and its headquarters are located at 133 South 36th Street, Philadelphia 4, Pa. In that short space of time the Committee has become equipped to assist state and local lawyer groups to offer practical training on a number of important subjects, in any community, urban or rural, where that training may be desired.

WHAT SUBJECTS SHOULD BE COVERED?

The subjects in which training should be made available should be those which will benefit the members of the bar most. They should also be the subjects which the bar wants, and this has been the principal guiding factor to the Committee. Polls have been taken. Also, the members of the Committee, representing as they do a cross section of the bar of the country, geographically, age-wise and from the standpoint of diversity of experience and interest, are in a position to ascertain needs and desires of the bar as a whole. On some subjects, as where, for example, drastic changes in the law, by legislation or otherwise, occur, no polls are necessary.

Subjects found to be very much desired by the bar are Taxation, Estate Planning, Legal Problems of Small Businesses, Legal Draftsmanship, Accounting for Lawyers, Labor Law and Negotiations, Bankruptcy, Pre-Trial Practice, and Trial Techniques. The list is being constantly increased.

IN WHAT FORM SHOULD THE TRAINING BE OFFERED?

This problem was given long and careful consideration by the Committee. It concluded that by and large the training should emphasize practical aspects, and so far as possible should be presented in the problem form in which it is brought before the lawyer in his office. Lectures are excellent, but not sufficiently valuable with nothing else included. Their value increases if they are accompanied by literature, concise in form, which will be of use on the library shelf.

Panel of Lecturers. On every subject on which the Committee publishes literature, it also builds up a panel of lecturers, selected because of their knowledge of the subject matter and their ability to impart that knowledge to others. Whenever a course is given in a particular community, the audience is asked to "rate" the lecturers in a confidential report. Lecturers receiving an unfavorable rating are dropped from the panels. Another report, not confidential, is presented to the lecturers to enable them to improve their performances.

Literature. As a result of its studies, the Committee concluded that emphasis should first be placed upon the production of literature on a basic level, for the general practitioner, with little or no knowledge of the subject matter. All of the literature produced to date is of that nature. Subsequently, two other levels will be reached, for those who already are somewhat familiar with the subject, and finally, literature for the specialist or prospective specialist. The basic level was given priority in order to meet at once the needs of the bar as a whole.

The decision was also made that so far as possible, the literature should be in the form of basic texts. In this form, the material is

more readable, more easily understood, and of greater day-to-day value.

The texts cannot always be prepared in time to meet the demand. In such instances, syllabi or lecture outlines are utilized to bridge the gap. The syllabus has library use because it is documented. Both syllabi and outlines aid lecturers in preparation, and also in the hands of the audience, make the lectures easier to follow. The preliminary use of these expedients also results in better texts into which the syllabi and outlines are built.

The texts find two uses. First, they are part of the material for a lecture course, and are furnished as a part thereof. Ideally, they should be read in advance. Secondly, they can be purchased independently of lecture courses, for study and for library use. They can be purchased individually, or under an annual subscription plan.

Text material now available is:

Legal Problems in Tax Returns, by Thomas P. Glassmoyer and Sherwin T. McDowell of the Philadelphia Bar. This is a concise guide, particularly to the general practitioner, in preparing federal income tax returns of individuals.

Lifetime and Testamentary Estate Planning, by Harrison Tweed and William Parsons of the New York Bar. This is a textual discussion of tax and non-tax aspects of estate planning, with forms of wills and trust instruments, with extensive comments thereon.

The Drafting of Partnership Agreements, by John E. Mulder of the Philadelphia Bar and Marlin M. Volz of the University of Wisconsin Law School. This includes a short discussion of law, simple forms of general and limited partnership agreements, with extensive comments thereon.

To be published early in 1950 are texts on the following subjects:

Labor Law and Labor Negotiations, by Marcus Manoff of the Massachusetts and Pennsylvania Bars. This is a guide, praticularly to general practitioners, on law and practice in labor negotiations.

Basic Accounting for Lawyers, by Barton E. Ferst of the Philadelphia Bar. This is a basic text, designed to enable lawyers to read and understand the financial statements and records of their businessmen clients.

Price and Service Discriminations under the Robinson-Patman Act, by Cyrus Austin of the New York Bar and S. C. Oppenheim of George Washington University Law School. This text, in the wider field of Federal Control of Commercial Practices, is of great importance to every lawyer representing clients whose businesses cross state lines.

The Subscription Plan. All of the above six publications are available under the annual subscription plan, the first three for immediate delivery, the remainder upon publication early in 1950.

Literature now available in other than text form is:

Syllabus on Price and Service Discriminations under the Robinson-Patman Act, by S. C. Oppenheim. (Documented);

Syllabus on Legal Problems of Small Businesses, by Leonard Sarner of the Philadelphia Bar (to be published in text form);

Syllabus on Basic Accounting for Lawyers, by Barton E. Ferst;

Syllabus on Estate Planning, by George E. Cleary and William Parsons of the New York Bar;

Lecture Outline on Bankruptcy and Arrangements, by Leon Forman of the Philadelphia Bar (to be published in text form).

WHAT ORGANIZATION SHOULD MANAGE AND SPONSOR THE COURSES?

The Committee itself does not sponsor any lecture courses or institutes. It merely offers its aid to state and local groups. To make the project on continuing legal education known to the bar generally, the Committee has encouraged state bar associations to conduct one-day institutes as a part of annual meetings. This has been successfully done in such states as Nebraska, Oklahoma, Arizona, Utah, Montana, Colorado, North Dakota and others. Following such demonstration programs, additional institutes in different parts of the particular state and at different times can be held.

State wide organizations are necessary to act as sponsors. They must have leadership and permanency. A one-year committee whose membership changes each year is not sufficient, because there is no continuity. How can such leadership and permanency be secured?

In Nebraska they are secured through one man, George Turner, Secretary of the State Bar. No state has done more in conducting

sound educational programs from year to year than Nebraska. It can be stated that the almost ideal situation is to have leadership by one man, if the right man can be found. Nebraska has found him.

Continuity can be had in other ways. In California a permanent organization has been set up, as a result of which annual programs are conducted in as many as twenty-six different communities in the State. Under the California plan, leadership is in the hands of a central committee of the State Bar. That committee determines all matters of policy, as to what courses should be given, the selection of lecturers, and the acquisition of appropriate literature. (Sample polls have been effective in securing information as to the subject matter of courses.) The central committee is ably assisted by an advisory committee of the deans of the accredited law schools within the State. The deans are more or less permanent in their positions. (Of course, the deans might be members of the head committee, if this is desired.)

Administrative details are handled by a representative of the Extension Division of the University of California. Here, since the representative remains in office from year to year, is lodged experience and know-how. In this way, too, the committees are relieved of detail. When a course is offered in a particular community, the local bar association acts as co-sponsor.

The national Committee offers its assistance in the various states in the creation of such organizations. It will gladly send out a representative for that purpose. This is being done in a substantial number of states. But the impetus must come from the local level.

HOW CAN THE TRAINING BE FINANCED?

The cost of financing projects on continuing legal education is small. In most places, a modest registration fee is charged, small enough to be easily within the reach of every member of the bar. The registration fees are used to pay for all costs—of lecturers, for literature supplied by the national Committee, hall rental, advertising and the overhead of the national Committee.

In some places, such as Nebraska, no registration fee is levied. The State Bar finances the entire program, and even reimburses the national Committee for overhead. The audience pays only for the literature.

The precise method of financing is not important. The project can be made self-supporting at a low cost, and there is every indication that operations in California will be self-sustaining. A registration fee is generally advisable, both for purposes of revenue, because lawyers ought to be willing to pay, and because their interest is greater when they pay than when they don't. The benefits received far outweigh the small cost involved.

THE FUNCTIONS OF THE COMMITTEE

It is fair to ask—Where does the Committee on Continuing Legal Education fit into the picture—What can it do to help state and local groups?

The Committee offers its services for the following purposes:

1. It assists in the creation of state and local organizations to act as sponsors of continuing legal education programs.

2. It supplies speakers for lecture programs and institutes.

3. It provides literature for lecture programs and institutes.

4. It aids in publicizing state and local projects.

5. It operates as a clearing house for the experiences of groups in the various states and for the distribution of literature published by others.

The experience gained by the Committee from the many local groups throughout the country thus provides a breadth of knowledge of immeasurable value, which is available upon request.

CONCLUSION

There can be no possible doubt about the value and necessity of continuing legal education to every member of the bar. The Committee opens up possibilities which have never existed before. But the impetus must come from the leaders of the bar in each state. To establish a state wide organization would be a substantial contribution by every state bar president during his term of office. It would aid materially in making individual lawyers better equipped to perform their "private duties". The Committee stands ready to help.

The Literature of Judicial Administration

BOOKS

Francis X. Busch, veteran of the Chicago bar and author of that delightful bit of legal autobiography a few years back, *In and Out of Court*, has proved his versatility by publishing this year a most learned and scholarly legal text, *Law and Tactics in Jury Trials* (Indianapolis: Bobbs-Merrill, 1949. Fabrikoid, pp. xxvii and 1174. $17.50). As suggested in the subtitle, "The Art of Jury Persuasion; Tested Court Procedures," the book is chiefly a handbook for the trial lawyer appearing before juries, enabling him to draw on the author's half-century of experience, with hundreds of pages of real-life examples from court records illustrating various techniques in dealing with witnesses and juries. It is more than that, however, comprising as well a comprehensive treatise on jury law in all its aspects, including its historical background, both English and American, nature and extent of the right of jury trial and its constitutional and statutory modifications, selection and qualification of jurors, respective functions of court and jury, hundreds of pages on preparation of the case, presentation of evidence, cross examination and argument, and concluding with chapters on instructions to juries, deliberations of the jury, and verdicts. It is written in an easy, informal, highly readable style that belies the immense amount of learning and research put into it by the author during its four years of preparation. Mr. Busch still believes in jury trial after a lifetime of working with it. His book deserves a place not only on the reference shelf but in the lawyer's home reading library.

No better reading for lawyers, judges or anyone else can be found than the Bible. Entirely apart from its spiritual significance, it is a literary masterpiece of concise expression, vivid description, dramatic narration and profound wisdom, familiarity with which has characterized most of the great masters of the English language. For many people the Authorized King James Version of 1611 can never be excelled, but its English is now more than three centuries out of date, and the research of scholars during the same interval has disclosed many errors in its translation. Of the several modernized and revised versions, one of the best is *The Moffatt Bible* (Harper and Bros., New York, cloth, 5" x 7¼", $3.75), translated by Dr. James Moffatt, outstanding Biblical scholar of Scotland, England and this country. It is a complete retranslation into modern language, with mistranslations and anachronisms corrected, and with poetic passages done in remarkably good English poetry. The same publisher offers a companion volume (George Stimpson, *A Book About the Bible*, cloth, 509 pp. 5¾" x 8", $3.50), consisting of a vast storehouse of interesting information about the contents of the Bible, the Book itself, its translations and its history, put together in attractive and entertaining question-and-answer form. The two volumes would be a worthy addition to any home or office bookshelf.

Four 1949 books on various aspects of criminal justice deserve mention here.

Bulwarks Against Crime, 1948 yearbook of the National Probation and Parole Association (1790 Broadway, New York 19; 359 pp. paper $1.50, cloth $2.00) is a symposium of twenty-five nationally-known authors under seven subject groupings: current approaches to crime treatment, special child and family services, the group in camp and training school, guiding the adult offender, legal aid services, problems and practices in other countries, and delinquency prevention in the community.

Juvenile Delinquency, the January, 1949, issue of the *Annals* of the American Academy of Political and Social Science (3817 Spruce St., Philadelphia 4; 233 pp. paper, $2.00) is a very similar collection of seventeen essays, with even some of the same authors, under the headings of Juvenile delinquency —law and fact, the juvenile delinquent and his environment, the court and the juvenile delinquent, and detention and institutional treatment.

The Criminal by August Vollmer (Brooklyn: The Foundation Press, 1949. Pp. xv and 462. Cloth, $4.00) is an exposition of the author's views and conclusions concerning criminal behavior drawn from forty-two years of experience as policeman and police consultant. He reviews criminal behavior from its biological, physiological, psychological, socio-psychological, pathological and law enforcement aspects, and concludes, in brief, that the causes of crime and delinquency are complex, that there is no simple remedy and that punishment is not the solution, that treatment must be based on study of the individual, that there is a need for reliable crime statistics and behavior research, that crime prevention must begin in early childhood, and that law enforcement officials should be professionally trained.

The *Encyclopedia of Criminology*, edited by Vernon C. Branham and Samuel B. Kutash (New York: Philosophical Library, 1949. Pp. xxxvii and 527. Cloth, $12.00), is an unusually convenient and usable source book for concise factual information regarding all phases of criminology. It consists of around two hundred essays of from one to twenty-five pages in length, alphabetically arranged in encyclopedic fashion. The authors are sixty prominent authorities in their respective fields. Most articles are followed by a bibliography.

Professor Paul A. Freund's *On Understanding the Supreme Court* (Boston: Little, Brown and Co., 1949. Cloth, 130 pp. $3.00.) consists of three lectures delivered at Northwestern University last spring. The first, "Concord and Discord," deals with the oft-discussed problem of dissents. The second is a "Portrait of a Liberal Judge: Mr. Justice Brandeis," as a man whose liberality lies in "an essential morality of mind," which he sympathetically and discerningly analyzes. In the third, "Judge and Company," (from Bentham, "The law is not made by judge alone, but by judge and company") he speaks of the part played by lawyers, as distinguished from judges, in the making of the law. The book will provide stimulating and enjoyable reading for lawyers, and, fresh from the press this month, would be an appropriate holiday remembrance.

ARTICLES

"What Do Judges and Lawyers Want from the Mandatory Pre-Trial Conference Practice?" by Albert A. Ridge. University of Kansas City Law Review, April-June, 1949, pp. 83-92.

"A Mandate from the Bar: Shorter and More Lucid Opinions," by Marshall F. McComb. A. B. A. Journal, May, 1949, pp. 382-4.

"Suggestions on Improving Appellate Opinions," by Albert Chandler and Boyd F. Carroll. A. B. A. Journal, April, 1949, pp. 277-282.

"Legal Aid and the Bar," by Emmet R. Field. Kentucky State Bar Journal, September, 1949, pp. 146-150.

"Utah's State-Wide Juvenile Court Plan," by John Farr Larson. Federal Probation, June, 1949, pp. 15-17.

Public Relations Lending Library

To stimulate interest and activity in the field of public relations of the bar, the American Judicature Society has acquired and offers, in addition to the pamphlet material listed under "Publications for Sale and Distribution" a small lending library of standard textbooks on public relations, selected for their particular applicability to the legal profession. These may be borrowed for one month without charge by bar association officers or public relations committees. Following are the titles now available:

Public Relations Principles and Procedures, by Theodore R. Sills and Philip Lesly. Chicago: Richard D. Irwin, Inc., 1948. Cloth, pp. x and 321.

Your Public Relations, edited by Glenn Griswold and Denny Griswold. New York: Funk and Wagnalls, 1948. Cloth, pp. xix and 634.

Public Relations in War and Peace, by Rex F. Harlow. New York: Harper and Bros., 1942. Cloth, pp. xii and 220.

An Introduction to Public Opinion, by Harwood L. Childs. New York: John Wiley and Sons, Inc., 1940. Cloth, pp. vi and 151.

Gauging Public Opinion, by Hadley Cantril. Princeton: Princeton University Press, 1944. Cloth, pp. xiv and 318.

You and Your Public, A Guide Book to the New Career—Public Relations, by Verne Burnett. New York: Harper and Brothers, 1947 (Rev. Ed.). Cloth, pp. x and 205.

The Public Relations Committee, by David M. Church. New York: National Publicity Council for Health and Welfare Services, Inc., 1949. Paper, 27 pp.

How to Get Publicity, by Milton Wright. New York: McGraw-Hill, 1935. Cloth, pp. ix and 226.

Wire Recordings Available for Bar Association Meetings

The American Judicature Society continues to acquire and offer wire recordings on judicial administration topics for local bar association program committees which are not able to pay expenses to bring prominent speakers to their meetings, or perhaps may be caught in an emergency without a program. The recordings are on standard recording wires and spools, and may be played on the Webster-Chicago or any standard wire recording instrument. In ordering, please be sure to specify date of meeting. The following are now available:

Harold J. Gallagher, New York, president of the American Bar Association. Address before State Bar of Michigan, Detroit, September 29, 1949. 50 minutes, including introduction.

Carl B. Rix, Milwaukee, former president of the American Bar Association. "Human Rights and International Law," address before the State Bar of Michigan, Detroit, September 30, 1949. About 45 minutes.

Fred M. Vinson, Chief Justice of the United States. "The Business of Judicial Administration." Address before the Judiciary Dinner of the United States, St. Louis, September 6, 1949. 30 minutes.

Glenn R. Winters, secretary, American Judicature Society. "The Legal Profession and the Public." Address before Columbus Bar Association, March 16, 1949. 30 minutes.

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Organization of the Bar

A Lawyer's Trust (An Argument for a Self-Governing and Responsible Bar), by Herbert Harly. Pamphlet, 19 pp. (1914).

Bar Integration Is a National Movement, by Herbert Harley. Pamphlet, 12 pp. (1938).

Bar Integration, by Carl V. Essery. From J. Am. Jud. Soc. 19:174-180 (1935). 10 cents.

State Bar Integration—Proved by Experience. Symposium of addresses at A. B. A. Conference of Bar Association Delegates, Boston, 1936. Pamphlet, 16 pp.

Supreme Court Justices Present Views on Bar Integration. Reprint from J. Am. Jud. Soc., 8 pp. (1941).

Planning a Bar Integration Campaign. Editorial, J. Am. Jud. Soc., 27:149-53 (1934).

Whole Bar Organzation—A Necessity, by Frederick W. C. Webb. From J. Am. Jud. Soc., 29:38-49 (1945).

List of integrated state bars, with date and mode of integration and citations to statutes and court rules. Single sheet, mimeographed (1949).

Eighth Annual Report, Committee on State Bar Organization, A. B. A. Conference of Bar Associaion Delegates, with model bar acts for integration, federation and affiliation plans. Pamphlets, 20 pp. (1927).

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